

MODELING AND SIMULATION R & D

Mr. WARNER. Mr. President, during yesterday's consideration of the fiscal year 2010 Energy and Water Development Appropriations bill, I noted that the managers included certain report language related to modeling and simulation capabilities for an unconventional fossil fuels program. I would like to ask the chairman and ranking member of the subcommittee if their intent was to improve modeling and simulation for unconventional fossil energy technologies, by working in collaboration with universities and industry to establish joint programs for research and development.

Mr. DORGAN. Yes, that is our intent. This legislation would spur innovation and improve modeling and simulation efforts.

Mr. WARNER. I am pleased to learn that, because the Virginia Modeling and Simulation Center—VMASC—at Old Dominion University has extensive experience in modeling, simulation, and visualization of complex systems and events. Its capabilities include a complete suite of visualization software that can incorporate geospatial information with simulation and analysis of energy-related systems and the impact of those systems on various aspects of the environment. It also has extensive experience modeling critical infrastructure components of fossil fuel, electric and natural gas systems. VMASC has also developed capabilities for modeling policy aspects of global warming that can be adapted specifically to fossil fuel systems, and help to identify unconventional oil, natural gas, and coal resources.

VMASC has developed capabilities to model the production of unconventional resources using a combination of computational techniques that can be adapted to simulate a wide variety of scenarios associated with the fossil fuel industry and its relationship to environmental impacts.

Mr. BENNETT. Mr. Chairman, I worked to develop this initiative to incorporate a capability that the Department has failed to cultivate, yet offers tremendous potential to develop our domestic fossil energy potential. The University of Utah's Simulation and Computing Institute which has worked with both the Office of Science and NNSA computing programs is a leading computing program with tremendous potential to contribute to this effort. This outstanding computing capability is coupled with the vast oil and gas production capabilities at the 25 year-old Energy and Geoscience Institute. This organization operates on seven continents and shares research and technology with its 66 corporate members that all have energy production experience. The goal of this program will be to facilitate the development of unconventional fossil energy resources utilizing state of the art computing simulation and modeling capabilities.

Mr. DORGAN. I agree that high performance computing applications are

important research tools that can help lead to breakthroughs in energy production. North Dakota State University, NDSU, uses computational modeling and simulations to help analyze theories and validate experiments that are dangerous, expensive or impossible to conduct. Through its Center for High Performance Computing, NDSU is collaborating with the Department of Energy and its national laboratories on a number of energy research projects.

The capabilities of VMASC, University of Utah, North Dakota State University and other institutions should receive due consideration as the Department of Energy executes this provision.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

EXECUTIVE ACCOUNTABILITY ACT
OF 2009

• Mr. BYRD. Mr. President, I draw the attention of the Senate to a bill I recently introduced, S. 1529, the Executive Accountability Act of 2009. This legislation is similar to H.R. 473, introduced in the House of Representatives in January by Mr. JONES of North Carolina.

"Those who cannot learn from history are doomed to repeat it." That is Santayana's Law of Repetitive Consequences, and it is the reason I introduced this legislation—that we might learn from history so that we do not repeat it.

The Executive Accountability Act certainly addresses lessons learned from the debate leading to the Iraq conflict, but it is also a lesson we should have learned, and should have corrected, as a result of executive branch actions leading to and during the Vietnam conflict, World War II, the Mexican War, the Spanish-American War and other points in our history when Presidents have distorted the facts, withheld critical information, or exaggerated circumstances in order to sway public opinion and congressional will.

History is replete with examples that know no partisan allegiance. Presidents from both parties have fallen into the trap of inflating fear and distorting facts, if not resorting to outright fabrication, in order to win approval for or justify using military force.

Democratic President Lyndon Johnson misled Congress during the Gulf of Tonkin incident in 1964, publicly announcing that a second attack had occurred. On the same day, however, a naval commander in the Gulf of Tonkin cabled that a review of the second attack was doubtful, calling for a complete evaluation before any further action was taken. Without the complete facts, Congress passed the Gulf of Tonkin resolution, leading the United States into a war that ultimately took more than 55,000 American lives.

Republican President Richard Nixon expanded the Vietnam conflict in 1969

by authorizing bombing operations in Cambodia and directing that they be conducted clandestinely. Operational reports of the bombings were either not made or were falsely described as having occurred over South Vietnam rather than Cambodia. A few Members of Congress were informed, secretly, of the bombings, but the remainder of Congress was deceived about the secret bombing campaign over a nation with which the United States was not at war.

Most recently, of course, another President, his Vice President, and other Cabinet officials, used scare-mongering tales of "smoking guns" and "mushroom clouds"; of non-existent weapons of mass destruction; dubious tales of mobile biological laboratories; fictional African trips to buy yellowcake; and, improbable and unsupported rumors of alliances between dictators and terrorists to stampede a fearful nation and a spineless Congress into a so-called "preemptive" invasion of another sovereign nation.

President Abraham Lincoln, an opponent of the Mexican-American War during his service in the House of Representatives, well understood the dangers of preemptive war and the need for the constitutional check on executive power inherent in the requirement for a congressional declaration of war or an authorization to use military force. Lincoln condemned President Polk for driving the U.S. into war with Mexico by putting U.S. forces in danger on disputed territory. Polk then inflamed public and congressional anger by asserting that Mexican soldiers had shed U.S. blood on U.S. soil. Lincoln explained his concerns with his usual eloquence:

Allow the President to invade a neighboring nation, whenever he shall deem it necessary to repel an invasion, and you allow him to do so, whenever he may choose to say he deems it necessary for such purpose—and you allow him to make war at pleasure. Study to see if you can fix any limit to his power in this respect, after you have given him so much as you propose. If, today, he should choose to say he thinks it necessary to invade Canada, to prevent the British from invading us, how could you stop him? You may say to him, "I see no probability of the British invading us," but he will say to you, "be silent; I see it, if you don't."

Lincoln went on to say,

The provision in the Constitution giving the war-making power to Congress was dictated, as I understand it, by the following reasons. Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This, our Convention understood to be the most oppressive of all Kingly oppressions; and they resolved to frame the Constitution that no one man should hold the power of bringing this oppression upon us. But your view destroys the whole matter, and places our President where kings have always stood.

Lincoln's insight considered preemptive wars only against neighbors. One can only imagine what he would think of the global reach that the current military might of the United States

gives to an unfettered executive. One can only wonder if Lincoln would think the “good of the people” has been served by a war that has climbed to more than \$845 billion in direct costs, with a total cost to the U.S. economy estimated by some to be more than \$3 trillion. What good has been served that is worth the more than 4,000 U.S. combat deaths and more than 31,000 U.S. casualties?

S. 1529 is a simple piece of legislation that applies only in the most limited but most important intergovernmental communications—the warmaking power. It prohibits the President, Vice President, and other executive branch officials from deliberately misleading Congress in an effort to persuade the Congress to authorize the use of force by the Armed Forces of the United States.

Officials are not prohibited from being wrong or having incomplete facts, but they may not knowingly and willfully falsify, conceal, or cover up by any trick, scheme, or device a material fact, or make any materially false, fictitious, or fraudulent statement or representation. They may not make or use any false writing or document that they know to contain any materially false, fictitious, or fraudulent statement. If the Congress finds that it has been deceived or lied to, the official can be referred to the Attorney General by either House of Congress for investigation and judicial action, if warranted.

The Executive Accountability Act is limited to executive branch officials only, and only with regard to lying to Congress and only about decisions on the use of force. Therefore, its penalties are unlikely to inhibit the normal flow of intergovernmental communications by creating a fear that any statement made before Congress might result in the threat of prosecution.

To those who say that there are already laws that prohibit individuals from making false statements to Congress, rendering the Executive Accountability Act unnecessary, I urge them to read the history of the False Statements Act, section 1001 of Title 18, U.S. Code.

In 1995, the Supreme Court ruled in *Hubbard v. United States* that section 1001 covered only false statements made to the executive branch, not to the judiciary or to Congress. Congress then moved to reverse the ruling by legislating changes to section 1001 in 1996. However, that bill, as enacted, applies only to administrative matters within Congress and any investigation or review conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress.

The Executive Accountability Act clarifies the requirement for honest testimony and discussion with the Congress about the most important question debated by Congress and provided by the most authoritative officials of the government.

The Framers were absolutely clear about the warmaking power: they gave the President the authority to lead troops after war was declared and to repel invasions of the United States, but only the Congress could authorize the use of force—the ability to send troops into battle. The Framers were well aware of the dangers inherent in vesting the warmaking decision with a single executive, having the history of the world’s kings and emperors as their foundation.

Our recent history has shown us that a powerful and persuasive executive can, and too often has, used his command of the intelligence and information gathering and dispensing functions of government to paint a distorted picture designed to frighten and sway Congress into ceding even more power to him. Presidents of all political parties have shown themselves to be equally susceptible to the lure of absolute power, making the Executive Accountability Act a non-partisan solution to a deep-seated problem.

S. 1529 restores balance to the system of checks and balances by reinforcing the role of Congress in decisions to use force. Congress does not have millions of civil servants working for it. It does not have its own intelligence community or its own diplomatic corps. Congress must rely upon the executive branch for those missions and for the product of those missions. So Congress must be confident that the information it receives is complete and factual—particularly when that information is used to inform a decision to commit U.S. troops and U.S. treasure to any foreign battlefield. Testimony and communications from the White House and the executive branch must be reliable—not fictional, not distorted, not embellished, not cherry-picked for the purpose of supporting only the decisional outcomes desired by the President.

I urge my colleagues to support S. 1529. It is not retroactive. It will not reach back to affect any statements made by previous administrations. We can learn from the past, make this necessary correction, and move into the future with greater assurance that the most difficult and consequential decisions made by Congress—those involving the use of military force—will be made on the basis of open and frank discussion based on all of the facts.●

CONGRESSIONALLY DIRECTED SPENDING ITEMS

Mr. INOUE. Mr. President, I submit pursuant to Senate rules a report, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DISCLOSURE OF CONGRESSIONALLY DIRECTED SPENDING ITEMS

I certify that the information required by rule XLIV of the Standing Rules of the Senate related to congressionally directed

spending items has been identified in the committee report which accompanies S. 1406 and that the required information has been available on a publicly accessible congressional website at least 48 hours before a vote on the pending bill.

VOTE EXPLANATION

Mr. MENENDEZ. Mr. President, I was unavoidably detained for rollcall vote No. 248, passage of H.R. 3183, Energy and Water Development and Related Agencies Appropriations Act, 2010. Had I been present, I would have voted “yea.”

STENNIS CENTER PROGRAM

Mr. KOHL. Mr. President, for 7 years now, the John C. Stennis Center for Public Service Leadership has conducted a program for summer interns working in congressional offices. This 6-week program is designed to enhance their internship experience by giving them an inside view of how Congress really works. It also provides an opportunity for them to meet with senior congressional staff and other experts to discuss issues ranging from the legislative process to the influence of the media and lobbyists on Congress.

The program is a joint effort of the Stennis Center and a number of current and former senior congressional staff who have completed the Stennis Congressional Staff Fellows leadership program. These Stennis Senior Fellows use their experience and expertise to design the program and to participate in each of the interactive sessions and panel discussions.

Interns are selected for this program based on their college record, community service background, and interest in a career in public service. This year, 21 outstanding interns, most of them juniors and seniors in college, who are working for Democrats and Republicans in both the House and Senate, participated.

I congratulate the interns for their participation in this valuable program, and I thank the Stennis Center and the Senior Stennis Fellows for providing such a unique experience for these interns and for encouraging them to consider a future career in public service.

I ask unanimous consent to have a list of 2009 Stennis congressional interns and the offices in which they work be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Matthew Blake, attending the University of South Dakota, interning in the office of Rep. Stephanie Herseth Sandlin, Jennifer Brody, attending the University of Wisconsin-Madison, interning in the office of Sen. Herb Kohl, Benjamin Eachus, attending Pitzer College of the Claremont Colleges, interning in the House Committee on Science and Technology, Tyler Ernst, attending Michigan State University, interning in the office of Sen. John Barrasso, Susan Gleiser, attending Vanderbilt University, interning